

United States District Court
Southern District of Georgia
Savannah Division

Ghaleb Alaumary
Marant,

v

United States of America
Respondent

FILED
U.S. DISTRICT COURT
SAVANNAH, GA.
2023 JAN 18 A 10:34
CV 422-216
(CR 420-027)

Alaumary's reply to the government's
arguments to 28 U.S.C. § 2255 Motion.

The Petitioner Ghaleb Alaumary took the time to gather all factual support, emails and letters to prove the ~~o~~ counsel's performance was unreasonable, unprofessional and definitely ineffective counseling. Attorney Steven Fry failed to investigate any defense or evidence that was provided by the Petitioner during pretrial. The Petitioner father consistently emailed the attorney's regarding the case, such as RSI rebuttal containing case site from the 11th circuit that was never used, Documentation regarding restitution amount that was not investigated properly by AUSA and the probation officer and came up with none factual amounts.

On August 11, 2021, The Petitioner's father sent an email to Mr Frey Stating the actual loss of Bank Islami Pakistan Limited and attached with it an official copy from the Bank letter to the Pakistani Stock exchange confirming that the total loss was only the equivalent of US \$19,500 and not \$6,228,992.94 that is ordered to be repaid as restitution
Name of Payee: Bank Islami Pakistan Limited \$5,500,000.00
- Visa International Service Association \$728,992.94
Referre to Exhibit 1

On September 8, 2021, that is one day before the court date, Mr Frey sent an email to the Petitioner's father, asking him to send him again the copy of the Bank Islami statment. Then during the court hearing, Mr Frey did not even mention anything about the exaggerated amount or this letter during his representation. The point here shows that Mr Frey started working on his court hearing presentation one day only before the court date, he could not even gather the evidence that sent to him before one month on August 11, and then did not make any use of this evidence during sentencing hearing. Referre to Exhibit 2

On September 13, 2021, less than one week after the court hearing and the judgement, Mr Frey sent a letter to the Petitioner at the liberty county jail saying that he will assist any lawyer the Petitioner choses to appoint to file a motion 2255.
Referre to Exhibit 3. In the letter it contained Post conviction consultation Certification Exhibit 4 and Exhibit 3.

The Petitioner called Mr Frey before signing anything, the attorney guided Alaumary on what box to check where to print name and sign knowing Alaumary wanted to file a habeas corpus, 28 U.S.C § 2255. Defence counsel failed to preserve the right of the defendant to file a notice of appeal or discuss with the defendant any appeal issues which might have been presented, in violation of Defendant's fifth amendment right to due process of law.

The PSR report, contained a lot of erroneous information provided to the AUSA and the probation officer by Federal agents. Despite the fact that Mr Frey was made aware of these errors, however he failed to make any corrections.

- 2B1.1(a) Base level offence: +7 correct
- Loss amount 2B1.1(b)(1)(L) +22 incorrect, proper enhancement would be 2B1.1(b)(1)(J) +18 Refer to Exhibit 5
- Conduct that would be conspired and attempted against the United States of America.
- 3B1.1(b) +3 incorrect enhancement, on the Georgia indictment total of 4 participant and not 5. Ohanaka, Alaumary, Desangles and the informant courson.

- 2B1.1(b)(10)(A) +2 Relocating of the scheme is incorrect. USA vs Morris, 153 Fed. Appx. 556 11th circuit case binding, which states "Although the government presented evidence that the defendant and the co-conspirators would go out of town to engage in credit card fraud, there was no evidence that any member tried to relocate the scheme to another jurisdiction. The evidence implied an expansion of the conspiracy rather than a relocation. The CI had a round trip Ticket.

- 2B1.1(b)(1)(c)i and 2B1.1(b)(1)(c)ii +2 is not applicable to the petitioner. In the PSI, it clearly states that codefendants, Ohanaka and Derangles, provided and manufactured all of the false identifications that were provided to the confidential informant. Therefore, the Petitioner should not received the two level enhancement. In summary, the petitioner was rightfully fighting ~~with~~ for a total of 9 points reduction from his ~~guideline~~ guideline with the attorney failed to challenge the probation officer with information that was provided to him one night before the sentencing hearing at liberty county jail.

- The prosecutor was provided and claimed an erroneous figures with the respect to another Restitution amount. Bank of Valletta Restitution order is \$6,091,299.26. The Bank recovered all lost funds the same day. Refere to ~~Exhibit~~ Exhibit 6.

In Brief, the prosecutor objective was to exaggerate the charges and hence, his achievements, then come up with a big success press release, ~~with~~ which he released to the press on the same day after the judgement. Attorney Frey should have fought for Alaumary's case, to get him a fair guilty plea agreement. He should have worked on the evidence and proofs that were presented to him to dismiss any foreign conduct that the government wanted to include in the plea agreement instead of advising Alaumary to simply admit to these highly exaggerated crimes. He should have disputed the errors in the PSR report.

He should have prepared a strong presentation in the final court hearing, he had all the time to prepare for it, he was provided long in advance with all the proofs and answers, yet he did not say one word about that. Alaumany ended up paying a hefty price for certain small crimes that he might have committed, but also to other larger crimes that either he did not commit or that did not even happen.

Exhibit 7: Bank islami web link to the statement for the exchange of \$19,500 USD Lost amount

Exhibit 8: Emails between petitioner father and attorney regarding 2255 motion.

Exhibit 9: Email to attorney asking him to argue all foreign relevant conduct that was not committed, conspired or abetted against United State of America.

Respectfully Submitted

by: ~~Alaumany~~

Ghaleb Alaumany / 72802-019

Fci Fort Dix

P.O. Box 2000

Saint Rose MDL

NS, 08640

01/12/2023

Exhibit 1

TRULINCS 72802019 - ALAUMARY, GHALEB - Unit: FTD-V-A

FROM: Alaumary, Bahjat
TO: 72802019
SUBJECT: MOTION 2255
DATE: 01/11/2023 02:06:07 PM

EMAIL SENT TO COUNSEL ON AUGUST 11, 2021 REGD BA ACTUAL LOSS

Mb Alaumary <mbalaumary@gmail.com>
<stevenfrey44@gmail.com>

Wed, Aug 11, 2021 at 4:12 PM To: Steven Frey

Dear Steven

Please find attached a copy of the official BankIslami statement regarding their suffered losses, being Rs 2.6 Million, equivalent to US\$19,500.

Thank you

MB Alaumary

Tel: 514-991-7890

Exhibit 2

TRULINCS 72802019 - ALAUMARY, GHALEB - Unit: FTD-V-A

FROM: Alaumary, Bahjat
TO: 72802019
SUBJECT: MOTION 2255
DATE: 01/11/2023 02:06:07 PM

EMAIL FROM COUNSEL 1 DAY BEFORE COURT HEARING TO SEND AGAIN THE BA DOCUMENT
Steven Frey <stevenfrey44@gmail.com>
<mbalaumary@gmail.com>

Wed, Sep 8, 2021 at 11:33 AM To: Mb Alaumary

Please send me the Bank of Islami document again Sent from my iPhone

Exhibit 3

THE FREY LAW FIRM

WILLIAM E. "PETE" FREY 1941-2000
STEVEN M. FREY

TWENTY-ONE LEE STREET
JONESBORO, GA. 30236
PHONE: 770-471-0599
FAX: 770-471-1206
E-MAIL: thefreylawfirm@gmail.com

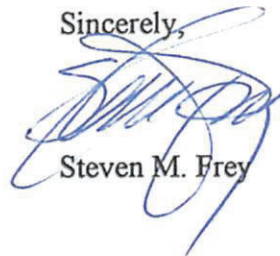
September 13, 2021

Ghaleb Alaumary
Liberty County Jail
180 Paul Sikes Drive
Hinesville, GA 31313

Dear Ghaleb,

Please find enclosed the paperwork in connection with your right of appeal. As we discussed, if you are going to attack the manner in which the case was handled, it will be through a Writ of Habeas Corpus. Please have the attorney you choose to contact me so that I begin helping him as soon as possible.

Sincerely,



Steven M. Frey

TO BE COMPLETED BY THE DEFENDANT:

Exhibit 4

I, Ghaleb Alawmary [print name], certify that I this day met with my attorney,
Steven Frey [print name] and:

• I am of sound mind, clear-headed, and able to comprehend all of what my attorney has advised me about my right to appeal my conviction and sentence in this case;

• My attorney has fully explained to me the appellate process, including that I

(a) have the right to a direct appeal to the Eleventh Circuit, with assistance of counsel, free of charge, if I am indigent, but to exercise that right I

(b) must timely file a notice of appeal and

(c) comply with all appellate form-completion and briefing obligations;

• My attorney has advised me about the advantages and disadvantages of pursuing an appeal;

• My attorney has thoroughly inquired of me about my interest in appealing my conviction.

It is in that light that (check one):

☐ I have decided to file an appeal and thus have instructed my attorney to file it for me.

☒ I have decided not to file an appeal, and my attorney has explained to me the consequences of failing to do so. Those consequences include the waiver of my right to complain about the process that led up to my conviction, including in the future, should I decide to seek any form of habeas corpus, 28 U.S.C. § 2255, or other judicial relief from the conviction.

This 13 day of Sept., 2021

Print: Steve Frey name of attorney

Sign: [Signature] signature of attorney

Witnessed:

Print: Ghaleb Alawmary name of defendant

Sign: [Signature] signature of defendant

FILING: Counsel must file this form in the trial-court record of the defendant's case within ten business days following its completion. Attach this as the second page of a document bearing the caption of your client's case with this title: "POST-CONVICTION CONSULTATION CERTIFICATION."

Victim's name	Actual loss	Intended loss	Victim's name	Actual loss	Intended loss
Victim A	\$ 0.00	\$ 216,000.00	McEwen University Canada	\$ 1,021,570.12	\$ 11,822,000.00
Victim B	\$ 0.00	\$ 900,000.00	Bank Islami Pakistan Limited	\$ 19,500.00	\$ 6,122,173.08
Mandavee Enterprise LLC	\$ 13,960.00	\$ 522,747.66	Indian Bank Cosmo	\$ 16,307,642.20	\$ 16,307,642.20
Implus Footcare LLC	\$ 59,000.000	\$ 1,170,175.21	Bank of Valletta	\$ 0.00	\$ 14,700,000.00
Law Firm	\$ 922,857.76	\$ 922,857.76	English Premier League Club	\$ 0.00	\$ 7,740,000.00
Total	\$ 995,823.76	\$ 3,715,780.63	Total	\$ 17,348,712.32	\$ 56,691,815.36

EXHIBIT 5

EXHIBIT 6

TRULINCS 72802019 - ALAUMARY, GHALEB - Unit: FTD-V-A

FROM: Alaumary, Bahjat
 TO: 72802019
 SUBJECT: Habeas Corpus and Section 2255 Proceedings
 DATE: 07/31/2022 11:51:09 AM

First: Regarding zero losses declared by the Bank of Valletta and links: >
 Press release

Bank of Valletta fully recovered ALL the 13M euros hack confirmed that 10M euros of the approximate 13M euros fraud were reversed before even leaving the bank and the balance of approx. 2.9M euros were located in a Hong Kong Bank and were also recovered by the Bank read this link: <http://www.independent.com.mt/articles/2019-05-09/local-news/Remaining-2-9-million-stolen-in-BOV-cyber-attack-found-in-Hong-Kong-6736207900>

And:
<https://www.pressreader.com/malta/malta-independent/20190510/281496457724022>

Remaining 2.9 million stolen in BOV cyber attack found in Hong Kong

Albert Galea Thursday, 9 May 2019, 18:17 Last update: about 4 years ago

Legal proceedings underway to recover money/Bank of Valletta declares 71.2 million profit for 2018 financial year

The remaining 2.9 million which was stolen in a cyber attack on Bank of Valletta last February has been found in Hong Kong, and the bank's lawyers are opening legal proceedings in that country to recover the money, Bank of Valletta chairman Taddeo Scerri said at the bank's annual general meeting.

Around 13 million was stolen from BOV last February after a cyber attack hit the bank, forcing it to shut down its entire grid.

The bank came back online the following day, and since then 10 million of that which was stolen has been recovered.

While the cyber attack was not brought up during the speeches of Scerri and of CEO Mario Mallia, questioned by bank shareholders, Scerri revealed that the remaining 2.9 million which had been stolen has been located and every effort was being made to recover it.

Scerri told shareholders that had it not been for the immediate response of BOV staff to decide to immediately cease all overseas transactions, the attackers would have stolen much more than 13 million.

He said that the bank has brought in global experts to help strengthen the bank's IT and security infrastructure while an IT Overview Committee was also set up to oversee this process. Scerri assured that the bank is today in a position where it can meet and beat back similar attacks.

In his speech, Mallia spoke of how the bank was going to have a more restricted risk appetite in the coming year, and said that it would be closing trusts and custody while also ending their relationship with thousands of customers which are over the said risk appetite. He said that the bank would no longer be considering clients with no connection to Malta.

The bank declared a profit of 71.2 million after taking into account its litigation provision. The total profit prior to the litigation provision being taken into consideration was that of 146.2 million, which was equivalent to a 9.9% return on equity significantly higher than the 7.3% average registered by banks in the Eurozone.

Client deposits rose by 314 million, equivalent to 3.1%, to a total of 10.4 billion while the bank's assets rose by 326 million, meaning that these assets now stand at 12 billion. The bank's total equity currently stands at 994 million.

Mallia described the year as one of growth despite a number of challenges which were faced.

"We experienced a sustained request for lending, especially in the mortgages sector with a number of business areas, including investment services, credit cards and payments registering substantial growth," he said.

"Priority will continue to be given to the conservation and strengthening of the Group's Capital," Scerri meanwhile said. "The Bank will emphasise on long-term sustainability and stability hence the Board of Director's decision not to pay a cash dividend this year.. Nonetheless shareholders will benefit from a bonus share issue of 1 new share for every 10 shares held for a total value exceeding 53 million at current market price", he said.

Shareholders voted in favour of the release of these bonus shares, which means that the bank's capital will go up from 530 million to 583 million.

No election of Directors was held during the Annual General Meeting, meaning that the Bank's board of directors is composed of Taddeo Scerri as Chairman, Stephen Agius, Paul V. Azzopardi, Miguel Borg, James Grech, Alfred Lupi, Mario Mallia, Anita Mangion, Antonio Piras, and Joseph M. Zrinzo.

Exhibit 7

TRULINCS 72802019 - ALAUMARY, GHALEB - Unit: FTD-V-A

FROM: Alaumary, Bahjat
 TO: 72802019
 SUBJECT: Habeas Corpus and Section 2255 Proceedings
 DATE: 07/31/2022 11:51:09 AM

Second: Regarding actual losses by the Pakistani Bank and links to proofs
 The BankIslami has confirmed that his total loss amounted to US\$19,500 and not 6.5M\$ as was reported by the news agencies.
 The attached copies of an official BankIslami letters confirm that. (2 attachments)

<https://www.zdnet.com/article/pakistani-bank-denies-losing-6-million-in-countrys-biggest-cyber-attack/>

<https://www.scribd.com/document/391889989/Bank-Islami-Statement>

<https://twitter.com/BankIslamiHR/status/1056648252421013508>

BankIslami

BankIslami Pakistan Limited 11th Floor, Executive Tower, Dolmen City, Marine Drive, Block-4, Clifton, Karachi.

Tel: (92-21) 111-247(BIP)-111

Fax: 35378373

www.bankislami.com.pk

October 28, 2018

The General Manager
 Pakistan Stock Exchange Limited Stock Exchange Building
 Stock Exchange Road Karachi

Dear Sir,

Our Ref: 100.2.311 MSH:SKS

Subject: Material Information: Cyber Attack on Debit Cards

In accordance with Section 96 of the Securities Act, 2015 and Clause 5.6.I(a) of PSX Regulations, we hereby convey the following information:

This is to inform that on the morning of October 27, 2018 certain abnormal transactions valuing Rs.2_6 million were detected by the Bank on one of its international payment card scheme. The Bank immediately took precautionary steps which, inter alia, included shutting its international payment scheme. All monies withdrawn from the accounts i.e. Rs.2.6 million have been credited in the respective accounts of valued customers.

Subsequently, after the Bank was cut off from the international payment scheme, the Bank was advised by international payment scheme that some transactions were made on international ATM's allegedly using Bank's issued cards. However, no details have so far been shared with the Bank as to how such transactions were processed and validated when such transactions never landed on Bank's system. These transactions, of approximately USO 6 million as claimed by international payment scheme, are not acknowledged by the Bank as the Bank was actually logged off from the international payment scheme at that time.

The Bank is of the view that it was a co-ordinated cyber attack in which the payment network of the international payment scheme as well as that of the acquiring banks were possibly compromised. We have initiated consultations with information security experts. The State Bank of Pakistan has been advised accordingly.

Please be advised that all domestic ATM cash withdrawal transactions using Bank's Biometric service have been restored on the same day. However, as a precautionary measure, all transactions routing through international payment scheme will be shortly restored once the Bank is confident that all risks of unauthorized transactions have been mitigated.

Alhamdulillah, there is absolutely no threat as to continuing operations of the Bank. Any further details as and when they

Exhibit 8

----- Forwarded message -----

From: **Steven Frey** <stevenfrey44@gmail.com>
Date: Mon, Sep 13, 2021 at 1:40 PM
Subject: Re: Ghaleb docs
To: Mb Alaumary <mbalaumary@gmail.com>

I believe he has a year for the habeas. As I told him, he will want to hire an atty in the area where he is placed by BOP

On Mon, Sep 13, 2021 at 1:16 PM Mb Alaumary <mbalaumary@gmail.com> wrote:

Ghaleb is also saying that his PSI points were already **reduced from 37 points to 36 points**
however they deducted the 4 points from the 37 points

Beside the fact that the LA prosecutors has promised you a double digit reduction of points

I do have a lot of respect for you and I would like you **please to answer me on the following questions:**

- what is the best approach to take now? A 2255 motion to reduce the sentence?
- What to look for from the motion and what are our chances?
- What are the time limits to file the motion?

Thank you

MBAlaumary

Tel: 514-991-7890

On Mon, Sep 13, 2021 at 11:46 AM Steven Frey <stevenfrey44@gmail.com> wrote:

Mr Alaumary,

I too am shocked at the Court's judgment. I will get you the requested materials.

Steve

On Mon, Sep 13, 2021 at 9:06 AM Mb Alaumary <mbalaumary@gmail.com> wrote:

Dear Steven

We are still in shock about Ghaleb's court judgement.

We were expecting double digit points reduction.

I would like you please to send me the following documents by courier post and email attachments, whichever is applicable, as soon as possible:

- The presentation that Ghaleb prepared for the sentencing hearing and that he gave you during your last visit to him before the court date.
- All letters send from Ghaleb to you
- Ghaleb's indictment

Exhibit 9

TRULINCS 72802019 - ALAUMARY, GHALEB - Unit: FTD-V-A

FROM: Alaumary, Bahjat
TO: 72802019
SUBJECT: MOTION 2255
DATE: 01/11/2023 02:06:07 PM

EMAIL SENT TO COUNSEL MAY 27 2021 REGD FOREIGN RELEVANT CONDUCT

IMP: 11th circuit: court Foreign Relevant Conduct
1 message

Mb Alaumary <mbalaumary@gmail.com>
<stevenfrey44@gmail.com>

Thu, May 27, 2021 at 2:04 PM To: Steven Frey

Thank you for your response. The foreign relevant conduct should not apply

I did some research on casetext earlier for Ghaleb on certain 11th circuit court cases related to foreign relevant conducts (attached)

One thing I have noticed during my research on casetext, is that the 'foreign relevant conduct' were denied mostly for cases including 'drugs seized in the high seas destined to the USA' or cases related to 'Human trafficking' Other 'foreign relevant conduct' cases related to fraud, wires or money laundering, that occurred in sovereign foreign countries, were dismissed many times at the 11th circuit court.

MB Alaumary
Tel: 514-991-7890

Clerk of the Court
124 Barnard St,
Savannah, GA
31401

